



1652
TJK/209

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of KAVERI et al.)
Serial No.: 10/031,938)
Filed: July 22, 2002)
CATALYTIC ANTI-FACTOR VIII
ALLO-ANTIBODIES
Group Art Unit: 1652
Examiner: Charles L. Patterson, Jr.

MAIL STOP: NON FEE AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

In response to the Restriction Requirement Office Action dated May 19, 2004, mailed May 20, 2004, Applicants respond with traverse as follows, noting that the election appears in the last line of this response. A request for a one-month extension of term is provided bringing the response term up to July 20, 2004.

The Examiner states that Restriction is required under 35 U.S.C. 121 and 372, since the application contains the groups of inventions of Groups I to XI which are not so linked as to form a single general inventive concept under PCT Rule 13.1, and that as a consequence, the applicant is required, in accordance with 37 CFR 1.499, in reply to said action, to elect a single invention to which the claims must be restricted.

Applicants respectfully traverse the Examiner's restriction requirement under 35 U.S.C. §121, as follows :

- 1) At the outset this application, which is a National phase of a PCT application, is subject to unity of invention requirements under 37 CFR §1.499.

35 U.S.C. 371 correctly links the unity of invention to PCT Rule 13. However, the unity of invention has already been reviewed by the International Searching Authority when making the search and it is apparent that the International Searching Authority has already ruled that the criteria of PCT Rule 13 were satisfied.

According to Article 27, paragraph 1 of the PCT, it is not possible for a National Office, as the Examiner attempts here, to add any additional requirement to those of the PCT Treaty and implementing Rules. In view of this, it should not be possible for the Examiner to raise the objection of lack of unity of invention for the present US phase of the PCT application.

2) In addition, it is Applicants' opinion that the Examiner has improperly applied Rule 13.

Rule 13, §1 stipulates that an International Application shall relate to an invention or a plurality of inventions so linked as to form a single inventive concept.

Rule 13.2 explains what is intended under the words of "single inventive concept".

Rule 13.2 emphasizes that there is such a link when there exists between the inventions a technical relationship bearing on one or several particular technical features identical or corresponding, said technical features providing a contribution of each of the claimed inventions, considered as a whole with regard to the state of the art.

It is manifest that in the present application, at least one technical feature is identical for all the categories of claims, which is hitherto-unknown anti-Factor VIII allo-antibodies which are capable of degrading Factor VIII in a mammal.

In view of this, there is manifestly unity of invention under the terms of PCT Rule 13 and it is respectfully requested that the Examiner withdraw the Restriction Requirement.

Even though traversed, Applicants elect Group I.

Date: 7/12/04

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Respectfully submitted

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CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 7/12/04

